SUPPLEMENTARY INFORMATION: On November 16, 1990, the President signed Executive Order 12735 on Chemical and Biological Weapons Proliferation and directed various other export control measures. The measures directed by the President include the following:

By June 1, 1991, the United States will remove from the U.S. Munitions List all items contained on the Cocom dual-use list unless significant U.S. national security interests would be jeopardized. (Memorandum of Disapproval of H.R. 4653, 26 Weekly Compilation of Presidential Documents 1839).

In implementation of the President's directive of November 16, 1990, regarding the United States Munitions List (USML), the Department of State has proposed comprehensive changes to the USML, which is part of the International Traffic in Arms Regulations (ITAR) (22 CFR parts 120–130). The ITAR implements section 38 of the Arms Export Control Act (22 U.S.C. 2778). The proposed rule that follows amends part 121.1, Category XI(c) of the ITAR.

It is the intent of the Department that this proposed rule change shall continue coverage on the USML of items specially designed, modified, or configured for military application or items justified for retention by significant national security interests. It is not the intent of the Department in the future to impose controls on dual-use items which are not controlled by the COCOM IL unless significant national security interests would be jeopardized. The Department particularly welcomes comments from the exporting community addressing any current overlap which we have not identified.

In implementation of the President's directive, the Department reviewed, in whole or in part, COCOM ILs 1501, 1516, 1517, 1526, 1527, 1529, 1531, 1533, 1537, 1544, 1545, 1558, 1566, 1568, 1572, 1574, and 1586. Overlaps were identified in five ILs: 1516, 1517, 1527, 1533, and 1565—panoramic/digitally controlled radio receivers, radio transmitters, cryptographic and ancillary equipment, spectrum analyzers, and computing equipment designed to limit electromagnetic radiation, respectively. The new wording of category XI is intended to eliminate the overlap with IL 1516, 1517, 1527, 1533, and 1565 and to retain only those radio receivers and/or analyzers, and computing equipment, that meets the criteria defined in § 121.1, currently existing category XI(c).

In addition, the amendment would delete the word "intended" from the language in the current XI(c) and more accurately describe the electronic systems and equipment that are being retained on the USML for national security purposes under the coverage of this category.

Finally, this amendment would add a cross-reference to encryption and space related equipment, and renumber Category XI paragraph (c) as paragraph (b).

This amendment involves a foreign affairs function of the United States and thus is excluded from the major rule procedures of Executive Order 12291 (46 FR 13193) and the procedures of 5 U.S.C. 553 and 554. Nevertheless, this amendment is being published as a proposed rule in order to provide the public with an opportunity to comment and provide advice and suggestions regarding the proposal. The period for submission of comments will close 30 days after publication of this proposed rule. In addition, this rule affects collection of information subject to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) and will serve to reduce the burden on exporters in that respect. The relevant information collection is to be reviewed by the Office of Management and Budget under control no. 1405–0013.

List of Subjects in 22 CFR Part 121

Arms and munitions, Exports.

Accordingly, for the reasons set forth in the preamble, it is proposed that title 22, chapter I, sub-chapter M (consisting of parts 120 through 130) of the Code of Federal Regulations, be amended as set forth below:

PART 121—THE UNITED STATES MUNITIONS LIST

1. The authority citation for part 121 continues to read as follows:

AUTHORITY: Sec. 38, Arms Export Control Act, 90 Stat. 744 (22 U.S.C. 2778); E.O. 11958, 42 F.R. 4311; 22 U.S.C. 2658.

2. In section 121.1, Category XI, paragraph (c) of the existing ITAR is redesignated as paragraph (b) and revised to read as follows:

§ 121.1 General. The United States Munitions List.

* * * * *

(b) * * *

Category XI—Military and Space Electronics.

* * * * *

*(b) Electronic systems or equipment specifically designed, modified, or configured for intelligence, security, or military purposes for use in search, reconnaissance, collection, monitoring, direction-finding, display, analysis and production of information from the electromagnetic spectrum and electronic systems or equipment designed or modified to counteract electronic surveillance or monitoring. A system meeting this definition is controlled under this subchapter even in instances where any individual pieces of equipment constituting the system may be subject to the controls of another U.S. Government agency. Such systems or equipment described above include, but are not limited to, those:

(1) Designed or modified to use cryptographic techniques to generate the spreading code for spread spectrum or hopping code for frequency agility. This does not include fixed code techniques or spread spectrum.

(2) Designed or modified using burst techniques (e.g. time compression techniques) for intelligence, security or military purposes.

(3) Designed or modified for the purpose of information security to suppress the compromising emanations of information-bearing signals. This covers TEMPEST suppression technology and equipment meeting or designed to meet government TEMPEST standards. This definition is not intended to include equipment designed to meet Federal Communications Commission (FCC) commercial electro-magnetic interference standards or equipment designed to suppress extra low frequency radiation for health and safety.

Encryption and Space related articles are in Categories XIII(b) of the current ITAR and XV (a) (1), (2), and (4), which will be created in a separate notice of rule making.

* * * * *

Dated: August 13, 1991.

Charles A. Duelfer,

Director, Center for Defense Trade; Bureau of Politico-Military Affairs.

[FR Doc. 91-21047 Filed 9-4-91; 8:45 am]

BILLING CODE 4710-25-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42030I; FRL 3927-5]

RIN 2070-AB94

Revocation of Mesityl Oxide Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule.

SUMMARY: This document announces EPA's proposal to revoke the Mesityl Oxide Final Test Rule at 40 CFR 799.2500 (MO; CAS No. 141–79–7). The MO Final Test Rule was remanded by the U.S. Court of Appeals for the Fifth Circuit to EPA to consider exposure information which became available after issuance of the final rule. EPA is proposing to revoke this rule because four of the manufacturers of MO have agreed to enter into a consent order with EPA to perform certain health effects tests. EPA believes testing will be

achieved more quickly, and EPA resources will be used more effectively under a consent order, compared with testing under the test rule cited above.

DATES: Submit written comments on or before November 4, 1991. If persons request an opportunity to submit oral comments by October 21, 1991. EPA will hold a public meeting on this proposed revocation in Washington, DC. For further information on arranging to speak at the meeting, see Unit V. of this preamble.

ADDRESSES: Submit written comments, identified by the docket number (OPTS-42030F), in triplicate to: TSCA Public Docket Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, rm. NE-G004, 401 M St., SW., Washington, DC 20460. A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: The manufacturers of MO have agreed to test MO under a consent agreement. Therefore, the previously issued final test rule is no longer necessary. EPA believes that, under a consent order, health effects testing will be achieved more quickly, and EPA resources will be used more effectively than if EPA reissued the test rule.

I. Background

On December 20, 1985 (50 FR 51857) EPA issued a test rule under TSCA that required manufacturers of MO to conduct health effects testing. The manufacturers challenged the final rule under TSCA section 19(a)(1)(B) in the 5th Circuit Court of Appeals (Ref. 1). The Court remanded the rule (40 CFR 799.2500) to EPA directing reconsideration of testing in light of information not included in the docket which may have had a bearing upon the case. Specifically, this included information submitted by the manufacturers under a section 21 petition (Ref. 3), on worker exposure from MO manufactured as a byproduct (Refs. 4 and 7), and an exposure survey conducted by the manufacturers of MO (Ref. 2). EPA believes that, even with the new exposure information, it can support the TSCA section 4(a)(1)(A) findings for the stayed test rule. In light of the manufacturers agreeing to the testing consent order, however, EPA has decided to revoke the stayed test rule.

Since the MO Final rule was promulgated, the Organization for Economic Cooperation and Development (OECD) adopted a screening information data set (SIDS) to be used for an international cooperative testing program. SIDS focuses on developing the test data needed to screen and set priorities on international high production volume (HPV) chemicals. The SIDS/HPV list includes HPV chemicals of potential health or environmental concern which have little if any test data publicly available for their assessment. The OECD list of HPV chemicals includes MO. After analysis of this exposure information, the manufacturers and EPA agreed that screening level health effects testing is appropriate for MO. The manufacturers have also agreed to perform the testing under an enforceable consent order using protocols modified after SIDS.

EPA plans to use the results of the SIDS testing for MO and other information to determine if additional testing of MO (i.e. oncogenicity) is necessary.

For more details about the regulatory history, use and exposure, health effects, and testing program, refer to the Testing Consent Order for MO published elsewhere in this issue of the Federal Register.

II. Testing Program

The testing requirements specified in the MO Final Rule (40 CFR 799.2500) included an inhalation subchronic toxicity test, salmonella reverse mutation assay, gene mutation cells in culture assay, sex-linked recessive lethal test in *Drosophila, in vitro* cytogenetics test, and the *in vivo* cytogenetics test. The heritable translocation assay and mouse specific locus assay could be triggered depending on the outcome of the other mutagenicity tests. Oncogenicity testing could also be triggered.

The MO Consent Order protocols were modelled after the OECD SIDS draft guidelines. The manufacturers have agreed to test MO for health effects using test protocols comparable to those developed by the United States and OECD for the SIDS testing program. The three-test battery will screen for mutagenic, subchronic, developmental and reproductive effects. MO will be tested for mutagenic activity using five strains of salmonella (with and without exogenous metabolic activation) and the *in vivo* mammalian bone marrow micronucleus assay. For the micronucleus assay, MO will be administered to mice by intraperitoneal injection; bone marrow will be harvested; and the ratio of polychromatic to normochromatic erythrocytes and frequency of micronucleated cells examined. Subchronic effects including effects to the blood, liver, spleen and kidneys, developmental (teratogenic) effects and reproductive effects will be evaluated using a combined test. Rats will be exposed by inhalation for 6 hours per day 7 days per week. Males will be exposed throughout the entire study, approximately 40 to 53 days. Females will be exposed only until day 20 of gestation, approximately 35 to 48 days. Full histopathology will be conducted on both male and female rats.

EPA has reviewed the three test protocols developed by CMA and the manufacturers and found them acceptable (Refs. 5, 6, 8, 9 and 10). The salmonella and micronucleus tests should provide equally reliable results as the EPA test guidelines published at 40 CFR part 798. The combined repeat dose developmental/reproductive effects test is a new protocol and is a modification of the test jointly developed by EPA and OECD for the SIDS program. The SIDS protocol calls for oral dosing and histopathology of only one sex. For MO, inhalation was selected as a more relevant route of human exposure and histopathology will be conducted on both sexes.

EPA believes that, even with the new exposure information, it can support the TSCA section 4(a)(1)(A) findings for the stayed test rule. In light of the manufacturers agreeing to the testing consent order, however, EPA has decided to revoke the stayed rule. EPA believes that the level of testing required by the consent order is appropriate. The consent order requires testing for two endpoints, developmental and reproductive effects, that were not required in the final test rule; however, it does not contain the triggered oncogenicity testing or the second or third tier mutagenicity testing that the test rule contains. Under the stayed test rule second and third tier mutagenicity and oncogenicity testing would be required only if the results of certain mutagenicity tests were positive. EPA has broad discretion to make policy choices on the menu of testing it believes appropriate for a particular substance provided that the tests are to:

develop data with respect to the health and environmental effects for which there are insufficient data and experience and which are relevant to a determination that the

manufacture, distribution in commerce, processing, use, or disposal of such substance ... does or does not present an unreasonable risk of injury to health or the environment.

[15 U.S.C. 2603 (a)].

In this case, EPA has decided as a matter of policy that it is not necessary to have an automatic trigger for oncogenicity or second and third tier mutagenicity testing included in the consent order. Instead, EPA will look at all results from the SIDS screening tests required by the consent order in conjunction with all available exposure information, including information on the manufacturing scenario at the time the tests are completed, before deciding whether or not to require this or other testing. If EPA then determines that oncogenicity or any other additional testing is necessary, EPA will initiate rulemaking, or negotiate an additional consent order to require such testing. If testing under the consent order is invalid or not conducted, EPA will initiate rulemaking. As part of any such rulemaking proceedings, EPA would make statutory findings pursuant to section 4 of TSCA.

III. Proposed Revocation of Final Test Rule and Issues for Comment

Based upon the reasons stated above, EPA is proposing to revoke the final test rule on MO (40 CFR 799.2500). The decision to allow the manufacturers to conduct screening level testing (SIDS) to obtain a base set of data on MO and other high production volume chemicals should allow EPA to better identify chemicals that are candidates for more in-depth testing and is an attempt by EPA to deal with limited resources (both private and public) to meet increasing demands for testing. EPA solicites comments on this approach for MO and other high production volume chemicals.

IV. Public Meeting

If requested, EPA will hold a public meeting in Washington, DC after the close of the public comment period. Persons who wish to attend or to present comment at the meeting should call Mary Louise Hewlett, Chemical Testing Branch (202) 475–8162 by (insert date 45 days after date of publication in the **Federal Register**). The meeting is open to the public, but active participation will be limited to EPA representatives and those who requested to comment. Participants are requested to submit copies of their statements by the meeting date. These statements and a transcript of the meeting will become part of EPA's rulemaking record.

V. Rulemaking Record

EPA has established a record for this proposed revocation under docket no. OPTS–42030I. This record contains the information EPA considered in developing the Consent Order and includes the following information.

A. Supporting Documentation

(1) Testing Consent Order for Mesityl Oxide.

(2) **Federal Register** notices pertaining to this proposed rule and the consent order consisting of:

(a) Notices announcing a public meeting for October 18, 1990, and soliciting interested parties to develop a consent order for MO, (55 FR 40234, October 2, 1990).

(b) Final rule for MO (Establishing testing requirements) (50 FR 51857, December 20, 1985).

(c) Final rule for MO (Establishing test standards and reporting requirements) (50 FR 19088, May 20, 1987).

(d) Section 21 Petition response (50 FR 30216, August 25, 1986).

(3) Communications consisting of:

(a) Written Letters.

(b) Contact reports of telephone conversations.

(c) Meeting Summaries.

B. References

(1) Shell Chemical Co. v. EPA, 826 F.2d 295 (5th Cir. 1987).

(2) Chemical Manufacturers Association (CMA). Results of a worker exposure survey conducted by the Ketones Panel of the Chemical Manufacturers Association using mesityl oxide as an intermediate and for operations where mesityl oxide is formed as a byproduct or impurity (non-CBI version), Washington, DC. (February 28, 1990).

(3) CMA. Ketones Program Panel. Section 21 Petition to Reconsider and Withdraw the Final Phase I Test Rule for Mesityl Oxide. Washington, DC. (April 29, 1986).

(4) EPA. Occupational exposure to mesityl oxide resulting from incidental formation. Kin Wong, Chemical Engineering Branch, Economics and Technology Division, Office of Toxic Substances. Washington, DC, 20460. (June 10, 1988).

(5) CMA. Letter on proposed mesityl oxide consent agreement. From: Barbara Francis, CMA. Manager, Ketones Panel, Washington, DC 20037. To: Robert Jones, Existing Chemicals Assessment Division, EPA. (September 12, 1990).

(6) CMA. Letter agreeing in principle to testing mesityl oxide under a consent order. From: Barbara Francis, CMA. To: Robert Jones, EPA. (December 27, 1990).

(7) PEI Associates, Inc. (PEI). Assessment of incidental production of mesityl oxide. Contract No. 69–02–4248, for EPA, Office of Pesticides andToxic Substances, Washington, DC 20460. (December 15, 1987).

(8) EPA. Letter with comments on CMA testing protocols. From Robert Jones, EPA to Barbara Francis, CMA. (December 6, 1990).

(9) EPA. Letter requesting final protocol changes and letter of agreement in principle to enter into the consent order. From Robert Jones, EPA to Barbara Francis, CMA. WAshington, DC, 20460. (December 11, 1990).

(10) EPA. Memorandum from M. Cimino, Toxic Effects Branch to R. Jones, Chemical Testing Branch, Office of Toxic Substances, Washington, DC, 20460, (August 19, 1991).

Confidential Business Information (CBI) while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted is available for inspection in the OPTS Reading Rm. NE–G004, 401 M St., SW., Washington, DC, from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

VI. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this proposed revocation would not be major because it does not meet any of the criteria set forth in section 1(b) of Executive Order 12291; i.e., it would not have an annual effect on the economy of at least $100 million, would not cause a major increase in prices, and would not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. In addition, it would remove some of the testing requirements previously required under TSCA section 4.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., Pub. L. 96–354, September 19, 1980), EPA is certifying that revocation of this test rule would not have a significant impact on a substantial number of small businesses because only the four manufacturers who sign the consent order will be responsible for paying for the testing, and none are small businesses.

C. Paperwork Reduction Act

There are no information collection requirements associated with this proposed revocation covered under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, Testing.

Dated: August 26, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR, chapter I, subchapter R, part 799 is proposed to be amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

§ 799.2500—[Removed]

2. By removing § 799.2500.

[FR Doc. 91-21269 Filed 9-4-91; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-315, RM-6308, RM-6532, RM-7561]

Radio Broadcasting Services; Hawesville and Hardinsburg, KY and Bloomfield, IN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: This document dismisses the petition of Harold Wayne Newton (RM-6308) requesting the allotment of Channel 234A to Hawesville, Kentucky, because no comments expressing a continuing interest in Channel 234A were filed by the petitioner or any other party. The remaining proposals in this docket will be addressed in a forthcoming action.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's First Report and Order, MM Docket No. 88-315, adopted August 15, 1991, and released August 29, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

Michael C. Ruger,

Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-21165 Filed 9-4-91; 8:45 am]

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